

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STARLETTE RUFF,	:	Case No. 2:22-cv-3439
	:	
Plaintiff,	:	
	:	
vs.	:	District Judge Edmund A. Sargus, Jr.
	:	Magistrate Judge Peter B. Silvain, Jr.
	:	
OHIO REFORMATORY FOR WOMEN,	:	
	:	
Defendant.	:	
	:	

REPORT AND RECOMMENDATION

On September 16, 2022, plaintiff filed a motion for leave to proceed *in forma pauperis* in this Court. (Doc. 1). On September 20, 2022, because plaintiff failed to file a complaint and her motion for leave to proceed *in forma pauperis* was incomplete, the Court issued a Deficiency Order requiring plaintiff to submit a complaint and pay the filing fee or submit a complete *in forma pauperis* application within thirty (30) days. (See Doc. 2). Plaintiff was advised that “[i]f plaintiff fails to comply with this Order, the Court shall dismiss this case for want of prosecution.” (*Id.* at PageID 42).

The Deficiency Order was returned to the Court on September 26, 2022, for failure to include an inmate number. (Doc. 4). On September 29, 2022, the Clerk of Court resent the Deficiency Order, however it was again returned, marked “last name does not match.” (Doc. 6). On October 5, 2022, noting that plaintiff’s name according to the Ohio Department of Rehabilitation and Correction records is Starlette S. Bartez, the Clerk of Court resent the Deficiency Order to plaintiff. (See Doc. 5).

On November 23, 2022,¹ plaintiff filed a motion for an extension of time, which was granted. (Doc. 8, 10). On January 10, 2023, plaintiff was again ordered to comply with the September 20, 2022 Deficiency Order within thirty (30) days. (Doc. 10). Plaintiff was again advised that “[i]f plaintiff fails to comply with this Order, the Court shall dismiss this case for want of prosecution.” (*Id.* at PageID 75).

On January 20, 2023, the January 10, 2023 Order was returned the Court as undeliverable. (Doc. 11). The Order was resent to plaintiff at her current location on January 30, 2023. (*See id.*). To date, more than thirty (30) days after the January 30, 2023 mailing and long after the September 20, 2022 Deficiency Order, plaintiff has failed to submit a complete *in forma pauperis* application or complaint as ordered by the Court.

District courts have the inherent power to *sua sponte* dismiss civil actions for want of prosecution to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). *See also Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991). Failure of a party to respond to an order of the court warrants invocation of the Court’s inherent power. *See* Fed. R. Civ. P. 41(b).

It is therefore **RECOMMENDED** that this matter be **DISMISSED** for lack of prosecution.

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **FOURTEEN (14) DAYS** after

¹ On November 17, 2022, more than thirty days after the October 5, 2022 mailing, the undersigned issued a Report and Recommendation to dismiss this action for plaintiff’s failure to comply with the September 20, 2022 Deficiency Order. (Doc. 7). The Report and Recommendation was withdrawn on January 10, 2023 based on plaintiff’s motion seeking an extension of time. (*See* Doc. 10).

being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent's objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Date: March 16, 2023

s/Peter B. Silvain, Jr.
Peter B. Silvain, Jr.
United States Magistrate Judge